

State of South Dakota

EIGHTIETH SESSION LEGISLATIVE ASSEMBLY, 2005

823L0495

SENATE BILL NO. 176

Introduced by: Senators Broderick, Abdallah, Kelly, Koetzle, and Sutton (Dan) and
Representatives Sebert, Elliott, Faehn, Hunt, Krebs, Kroger, Pederson
(Gordon), Rounds, Schafer, Street, and Willadsen

1 FOR AN ACT ENTITLED, An Act to provide for the recovery of amounts paid by an insurance
2 company to the Insurance Guaranty Association through the use of a premium surcharge.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-29A-79 be amended to read as follows:

5 58-29A-79. Each member insurer ~~may~~ shall set off against any assessment, authorized
6 payments made on covered claims and expenses incurred in the payment of such claims by the
7 member insurer if they are chargeable to the account for which the assessment is made. The
8 member insurer shall recover the amount of the assessment as provided in § 58-29A-103.

9 Section 2. That § 58-29A-103 be amended to read as follows:

10 58-29A-103. ~~The rates and premiums charged for insurance policies to which this chapter~~
11 ~~applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the~~
12 ~~association by the member insurer less any amounts returned to the member insurer by the~~
13 ~~association and such rates may not be deemed excessive because they contain an amount~~
14 ~~reasonably calculated to recoup assessments paid by the member insurer. Each member insurer~~
15 shall collect, over a reasonable length of time, a sum reasonably calculated to recover the



1 assessments paid by the member insurer pursuant to this chapter. The member insured shall
2 recover the assessments by imposing a surcharge on any insurance policy to which this chapter
3 applies. The amount of the surcharge shall be separately stated on the policy declaration
4 statement, schedule, or endorsement.

5 The plan of operation may permit a member insurer to forgo collection of the surcharge from
6 its insureds if the expense of collecting the surcharge would exceed the amount of the surcharge.